

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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U.S. UNDERWRITERS INSURANCE COMPANY,;

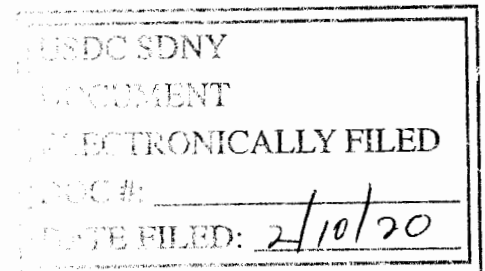
Plaintiff,

-v.-

MALDONADO CONSTRUCTION CORP., et al.,

Defendants.

: SCHEDULING ORDER
: 16 Civ. 9098 (VM) (GWG)



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GABRIEL W. GORENSTEIN, United States Magistrate Judge

The Court has considered the applications of certain defendants to stay discovery in this matter pending the disposition of their planned motions to dismiss. We have considered the factors governing such applications, see Hong Leong Fin. Ltd. (Singapore) v. Pinnacle Performance Ltd., 297 F.R.D. 69, 72 (S.D.N.Y. 2013), and deny the applications. First, defendants have not made a strong showing that their motions will be successful in light of the case law allowing broad discretion to federal courts in adjudicating federal declaratory judgment actions — actions that are not necessarily circumscribed by state court law regarding such actions. Second, we find that any prejudice to defendants can be mitigated by ensuring that they are not required to engage in any discovery that duplicates discovery in the state court actions. Third, we conclude that plaintiffs will be prejudiced by further delay given the age of this case.

Accordingly, the motions for stays of discovery (Docket ## 186, 189, 198) are denied and the Court issues the schedule for discovery set forth below. The Court further orders as follows: (1) defendants are free to object to any discovery requests on the ground that it would require them to duplicate discovery activities that have already occurred or are about to occur in a state court action involving plaintiff; and (2) defendants are free to opt out of all discovery if they do not dispute plaintiff's position in this action regarding coverage.


1. The parties may move to amend the pleadings or join any other parties no later than February 24, 2020.
2. All requests for documents and interrogatories pursuant to Local Civil Rule 33.3(a) shall be served by March 17, 2020.
3. All discovery shall be commenced in time to be completed by August 17, 2020.¹

¹ If any party intends to disclose expert evidence as required by Rule 26(a)(2)(A), (B) or (C), it shall consult with all other parties and make a proposal for a further discovery period for expert discovery by the same date.

4. Any request to Judge Marrero for permission to make a summary judgment motion shall be filed by August 24, 2020.
5. The parties may jointly request to participate in the Court's mediation program at any time by filing a letter on ECF so stating.
6. All discovery (including requests for admission and any applications to the Court with respect to the conduct of discovery) must be initiated in time to be concluded by the deadline for all discovery. Any application for an extension of the time limitations herein must be made as soon as the cause for the extension becomes known to the party making the application and in accordance with this Court's Individual Practices. Any application not in compliance with this paragraph will be denied. To the extent a party expects to produce electronically stored information, the parties shall promptly discuss the protocols for the search and review of such material.
7. All applications to the Court must comply with this Court's Individual Practices, which are available through the Clerk's Office or at:
<https://nysd.uscourts.gov/hon-gabriel-w-gorenstein> . Discovery applications -- that is, any application or motion pursuant to Rules 26 through 37 or 45 -- not only must comply with ¶ 2.A. of the Court's Individual Practices but also must be made promptly after the cause for such an application arises. In addition, absent extraordinary circumstances no such application will be considered if made later than 30 days prior to the close of discovery. Untimely applications will be denied.

SO ORDERED.

Dated: February 10, 2020
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge